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December 3, 2018

Via ECF

Hon. Paul E. Davison
United States Magistrate Judge
United States Courthouse
300 Quarropas St., Room 420
White Plains, NY 10601

RE: Stephen J. Cole-Hatchard v. George Hoehmann, *et al.*
U.S. District Court, Southern District of New York – Case No.: 16-CV-5900 (VB) (PED)

Dear Judge Davison:

We represent the Plaintiff in this matter and write, with the consent of Defense counsel, to respectfully request an extension of the fact discovery deadline from January 10, 2019 to February 28, 2019. There are several reasons for this.

In the past two weeks, the parties have completed four non-party depositions.¹ There are another five non-party depositions, and six party depositions, scheduled over the next three weeks, with the Plaintiff's deposition confirmed for this Wednesday. However, I have another nine court-ordered depositions in a Rockland County Supreme Court case entitled *Rosenthal, et al., v. Ramapo Radiology Associates, P.C., et al.*, Index No. 032782/2017, which must also be completed in December. The deponents in the *Rosenthal* case are all active practicing physicians whose schedules allow very little, if no, flexibility, and scheduling them was a project. The Court should note that the court-ordered depositions in the *Rosenthal* case were scheduled before I received Defendants' non-party subpoenas in the present case.

¹The completed depositions were of former Clarkstown Board Member Valerie Moldow, former Police Chief Michael Sullivan, former Chief of Detectives of the Rockland County District Attorney's Office, Peter Modafferri, and Nicko Feinberg, whose computer Plaintiff used to over-write his personal documents in the trash bin of his office hard drive.

Hon. Paul E. Davison, U.S.M.J.

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I am chiefly responsible for both this case and the state court matter, and I am unable to practically and effectively complete the depositions herein unless I can move a portion of them into January and February. Further, Plaintiff intends to pursue several non-party depositions, and as I am sure the court is well aware, the holiday season makes scheduling testimony particularly difficult.

An additional reason for this application is that Plaintiff intends to seek a ruling on an “executive session” privilege which Defense counsel asserted during the deposition of former Town Board member Valerie Moldow. This ruling will impact every one of the Defendants’ depositions going forward, and I respectfully suggest that judicial resources would best be conserved if the parties were permitted to brief the matter to the court before the Defendants are deposed. However, I am unable to address this issue until next week, inasmuch as Plaintiff is being deposed on Wednesday and I also have three depositions scheduled this week in the *Rosenthal* case.

We thank the Court for its kind consideration of this application.

Respectfully yours,

JUNGE & MELE, LLP

s/ Armand P. Mele

Armand P. Mele

cc: **Via ECF**- All Counsel of Record